

**2017 No. 602**

**CONSTITUTIONAL LAW**

**DEVOLUTION, SCOTLAND**

**The Scotland Act 2016 (Consequential and Saving Provisions)  
Regulations 2017**

*Made* - - - - 10.59 a.m. on 26th April 2017

*Laid before Parliament* 27th April 2017

*Coming into force* - - 18th May 2017

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 71(1)(a) and (b) of the Scotland Act 2016(a).

**Citation and commencement**

1. These Regulations may be cited as the Scotland Act 2016 (Consequential and Saving Provisions) Regulations 2017 and come into force on 18th May 2017.

**Amendments of the Representation of the People (Scotland) Regulations 2001**

2. The Representation of the People (Scotland) Regulations 2001(b) are amended as follows.

3. After regulation 26(6) insert—

“(6A) Before giving approval for the purposes of paragraph (6) to the design of the forms under paragraphs (3), (4) and (5A), the Minister for the Cabinet Office must consult the Scottish Ministers.”

4.—(1) In regulation 26(9) for the words from the beginning to “Cabinet Office” substitute “Where, by virtue of arrangements made by the Minister for the Cabinet Office, an application under paragraph (1) may be made through the digital service, the Minister”.

(2) For regulation 26(10) substitute—

“(10) Where an application in pursuance of an overseas elector’s declaration under paragraph (1) is made through the digital service, a registration officer may, but need not, accept it.”

5. After regulation 26A(3) insert—

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(a) 2016 c. 11.

(b) S.I. 2001/497, amended by S.I.s 2013/3206, 2015/450, 2015/1376, 2015/1966, 2016/997, 2017/587 and sections 2(2), 3(2) and 5(2) of the Scottish Elections (Reduction of Voting Age) Act 2015 (asp 7); there are other amendments which are not relevant to these Regulations.

“(3A) Before giving approval for the purposes of paragraph (3), the Minister for the Cabinet Office must consult the Scottish Ministers.”

6. After regulation 29(2AF) insert—

“(2AG) Before giving approval for the purposes of sub-paragraph (2AF)(b), the Minister for the Cabinet Office must consult the Scottish Ministers.”

7. After regulation 32ZA(2) insert—

“(2A) Before giving approval for the purposes of sub-paragraph (2)(b), the Minister for the Cabinet Office must consult the Scottish Ministers.”

8. After regulation 32ZC(1) insert—

“(1A) Before giving approval for the purposes of sub-paragraph (1)(b), the Minister for the Cabinet Office must consult the Scottish Ministers.”

### **Saving**

9. Article 82 of, and Schedule 6 to, the Scottish Parliament (Elections etc.) Order 2015(a) continue to apply in relation to sections 157, 160 and 173 of the Representation of the People Act 1983(b) as they applied immediately before 18th May 2017.

*David Mundell*  
Secretary of State for Scotland  
Scotland Office

At 10.59 a.m. on 26th April 2017

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make consequential and saving provision in connection with Part 1 of the Scotland Act 2016 (c. 11) (“the 2016 Act”).

When section 3 of the 2016 Act comes into force, the legislative competence of the Scottish Parliament will include, amongst other matters, the registration of electors on the register of local government electors in Scotland and, subject to the reservations contained in section 3, the conduct of Scottish Parliamentary elections. The digital service for the registration of electors will remain reserved. Section 4 of the 2016 Act will substitute a new section 12 of the Scotland Act 1998 (c. 46). The new section 12 will give the Scottish Ministers powers to make specified provision in respect of the conduct of Scottish Parliamentary elections and other specified matters. Section 9 of the 2016 Act will transfer to the Scottish Ministers other functions of a Minister of

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(a) S.S.I. 2015/425.

(b) 1983 c. 2. Subsection (5) of section 157 was repealed by section 128 of, and Schedule 22 to, the Political Parties, Elections and Referendums Act 2000 (c. 41). Subsections (1) to (3) of section 160 were amended by sections 24 and 28 of, and schedule 4 and 5 to, the Representation of the People Act 1985 (c. 50), subsections (4) to (5A) of section 160 were substituted by schedule 17 of the Political Parties, Elections and Referendums Act 2000 (c. 41), subsections (5A) and (5B) of section 160 were amended by section 34 of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14) and by the Local Electoral Administration and Registration Services (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007 (S.I. 2007/931). Section 173 was substituted by the Political Parties, Elections and Referendums Act 2000 and section 173(2) was amended by the Local Electoral Administration and Registration Services (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007 (S.I. 2007/931).

the Crown, so far as those functions are exercisable within devolved competence by virtue of a provision in section 3 of that Act.

Regulations 3 and 5 to 8 amend the Representation of the People (Scotland) Regulations 2001 (S.I. 2001/497) (“the 2001 Regulations”). As a result of these amendments the Minister for the Cabinet Office must consult the Scottish Ministers before approving the forms provided for in regulations 26 (applications for registration), 26A (applications for alteration of register in respect of name), 29(2AA) (confirmation of successful application), 32ZA (annual canvas) and 32ZC (invitation to apply for registration) of the 2001 Regulations.

Regulation 4 makes further consequential provision in respect of regulation 26 of the 2001 Regulations in connection with the reservation of the digital service.

Regulation 9 makes saving provision in respect of the Scottish Parliament (Elections etc.) Order 2015 (S.S.I. 2015/425) in connection with the commencement of sections 3 and 4 of the 2016 Act. Sections 157, 160 and 173 of the Representation of the People Act 1983, as they are applied to Scottish Parliamentary elections by article 82 of, and Schedule 6 to, the 2015 Order concern legal proceedings in respect of Scottish Parliamentary elections, and could affect membership of the House of Commons. As a result the application of these provisions to Scottish Parliamentary elections would not fall within the competence of the Scottish Ministers under new section 12 of the Scotland Act 1998.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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